

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LANCE R. BUSH,

Plaintiff,

v.

CASE NO. 04-73997

HON. LAWRENCE P. ZATKOFF

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

_____ /

ORDER

This matter is currently before the Court on Magistrate Judge Whalen's Report and Recommendation in which the Magistrate Judge recommends that Defendant's Motion for Summary Judgment should be denied and Plaintiff's Motion for Summary Judgment should be granted. Defendant has filed an Objection to the recommendation and Plaintiff has responded to Defendant's Objection.

After a thorough review of the court file, Plaintiff's and Defendant's motions, and the Report and Recommendation, the Court ADOPTS the Report and Recommendation's findings and conclusions in support of its recommendation that Defendant's Motion for Summary Judgment should be denied. Because the Court does not believe the *Faucher* standard¹ has been met, the Court does NOT ADOPT the recommendation that Plaintiff's Motion for Summary Judgment should be

¹ It is appropriate to remand for benefits when all essential factual issues have been resolved and the record adequately establishes a plaintiff's entitlement to benefits. This entitlement is established where the "proof of disability is strong and evidence to the contrary is lacking." *Faucher v. Secretary of Health and Human Services*, 17 F.3d 171 (6th Cir. 1994).

granted. Accordingly, the Court HEREBY DENIES both Defendant's and Plaintiff's Motions for Summary Judgment and HEREBY REMANDS the case for further administrative proceedings.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff

LAWRENCE P. ZATKOFF

UNITED STATES DISTRICT JUDGE

Dated: October 19, 2005

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on October 19, 2005.

s/Marie E. Verlinde

Case Manager

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